



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152194

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 15, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined Petitioner's FoodShare benefits for the month of June 2013 after Petitioner reported a change in household composition in the following a case closure.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Lashun Johnson

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's case was closed effective June 1, 2013 for lack of verification.
3. On June 10, 2013 Petitioner reported that a daughter had left the household. The agency reopened Petitioner's case as of June 10, determined Petitioner's monthly FoodShare allotment to be \$154.00 and issued prorated benefits for June 2013 in the amount of \$107.00.

4. Petitioner's household income consists of \$ 710 is Social Security benefits, \$188 for her son and earned income for her daughter in the amount of \$860. Petitioner did not dispute these figures.
5. Petitioner was credited with the standard allowance of \$149.00, an earned income deduction of \$172 and a shelter expense of \$198.35 based on rent of \$475.00.

DISCUSSION

The agency must verify information necessary to determine eligibility and benefit levels. *FoodShare Wisconsin Handbook (FSH)*, §1.2.1.1. Income is certainly an essential component of both eligibility and allotment levels. *FSH*, §4.3.1. The agency sought verification of the income of Petitioner's two daughters and when was that was not received the case closed. See *FSH*, §1.2.1.2. When Petitioner reported one of the daughters out of the home in the month after review the case reopened without a new application and benefits were prorated from the date of the report by the household. See *FSH* §§ 1.2.1.2 and 2.2.1.4. This was the subject of a separate DHA decision, #150115, issued on the same date as this case.

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. 7 *Code of Federal Regulations (CFR)*, §273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 1.1.4. The agency must budget all income of the FS household, including all earned and unearned income. 7 *CFR* § 273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 4.3.1. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH*, §4.1.1.

Once a household passes the gross income test the following deductions are applied (*FSH*, at § 4.6):

- (1) a standard deduction - which currently is \$149 per month for a household of 1-3 persons, 7 *CFR* § 273.9(d)(1);
- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);
- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (5) shelter and utility expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5). There is a cap of \$459.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH*, §§ 4.6.7.1 and 8.1.3.

I have reviewed the calculation and do not note any errors in determining a prorated benefit for June 2013 in the amount of \$107.00.

CONCLUSIONS OF LAW

That Petitioner's FoodShare allotment was correctly determined for June 2013.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of November, 2013

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 4, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability